

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

UCB, INC., UCB MANUFACTURING)
IRELAND LIMITED, UCB PHARMA)
GMBH and LTS LOHMANN THERAPIE-)
SYSTEME AG,)
)
Plaintiffs.)
)
v.) C.A. No. 17-322 (LPS)
)
MYLAN TECHNOLOGIES, INC.,)
MYLAN PHARMACEUTICALS, INC. and)
MYLAN, INC.)
)
Defendants.)

STIPULATION AND ORDER

WHEREAS Plaintiffs UCB, Inc., UCB Manufacturing Ireland Ltd., UCB Pharma GmbH, and LTS Lohmann Therapie-Systeme AG (collectively, "Plaintiffs") filed a complaint against Defendants Mylan Technologies Inc., Mylan Pharmaceuticals Inc., and Mylan Inc. ("Defendants"), directed to ANDA No. 209982 and alleging infringement of United States Patent Nos. 6,884,434 ("the '434 Patent"), 7,413,747 ("the '747 Patent"), 8,246,979 ("the '979 Patent"), 8,246,980 ("the '980 Patent"), and 8,617,591 ("the '591 Patent"), on May 24, 2017 (D.I. 1) ("the Action");

WHEREAS Defendants moved to dismiss the Action for improper venue on July 13, 2017 (D.I. 13) ("Defendants' Motion");

WHEREAS Plaintiffs conditionally moved to transfer the Action to the District of Vermont on August 10, 2017 (D.I. 22) ("Plaintiffs' Motion");

WHEREAS the Court denied Defendants' Motion and Plaintiffs' Motion without prejudice to renew after a period of venue-related discovery on December 1, 2017 (D.I. 41);

WHEREAS Defendants renewed their motion to dismiss the Action for improper venue on January 15, 2019 (D.I. 79);

WHEREAS Plaintiffs renewed their motion to transfer the Action to the District of Vermont on January 29, 2019 (D.I. 82);

WHEREAS the '434 Patent was the subject of a recent decision from the United States Court of Appeals Federal Circuit, *UCB, Inc. v. Watson Laboratories Inc.*, No. 18-1397 (Fed. Cir. 2019);

WHEREAS Plaintiffs filed suit against Mylan Technologies Inc. in the District of Vermont directed to the same ANDA at issue in this Action (ANDA No. 209982), asserting U.S. Patent Nos. 10,130,589 ("the '589 Patent") and 10,350,174 ("the '174 Patent"), on July 16, 2019 (D.I. 1 of C.A. No. 19-cv-00128-JMC (D. Vt.));

WHEREAS Defendants maintain, and Plaintiffs do not contest for purposes of this Action only, that venue is not proper in Delaware;

WHEREAS Defendants maintain that the proper outcome in this Action is either outright dismissal of the Action or transfer of the Action to the Northern District of West Virginia;

WHEREAS Defendants maintain that venue is not proper in Vermont as to Mylan Pharmaceuticals Inc. and Mylan Inc.;

WHEREAS in the interest of judicial and party efficiencies, Mylan Technologies Inc. agrees to have this Action transferred to Vermont;

IT IS HEREBY STIPULATED AND AGREED by and between the Parties hereto, subject to the approval of the Court, as follows:

1. Mylan Pharmaceuticals Inc. and Mylan Inc. are dismissed from this Action with prejudice with respect to any claims for infringement under 35 U.S.C. § 271(e) and without prejudice with respect to any other claim(s).

2. This Action, only remaining as to Mylan Technologies Inc., shall be transferred to the United States District Court for the District of Vermont.

3. The terms of this stipulation are made without prejudice to the respective positions of Plaintiffs and Defendants as to whether and where venue is appropriate for any party.

4. The case caption shall be amended to remove Mylan Pharmaceuticals Inc. and Mylan Inc.

MORRIS, NICHOLS, ARSH & TUNNELL LLP

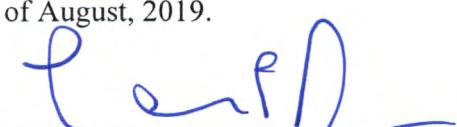
/s/ Derek J. Fahnestock

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August 21, 2019

SO ORDERED this 26th day of August, 2019.


Chief, United States District Judge